### REMARKS

In the May 17, 2006 Office Action, claims 1-5, 9, 10 and 12 are rejected under 35 U.S.C. § 112, second paragraph, claims 1-3, 5-9, 11 and 12 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 3,834,370 to Nelson in view of U.S. Patent No. 3,688,758 to Stephen, and claims 1-3, 5-9, 11 and 12 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,099,821 to Ceravolo in view of U.S. Patent No. 3,688,758 to Stephen.

By the present amendment, the specification is amended, claims 1, 6-8, 10 and 12 are amended, and claims 9 and 11 are canceled. That leaves claims 1-8, 10 and 12 pending in the application with claims 1 and 6 being independent.

The specification is amended to clarify the structure of the catches 26. Independent claim 1 is amended to recite that at least one catching device is disposed between first and second refractory members preventing the refractory members from contacting one another, and independent claim 6 is amended to recite a means for spacing disposed between first and second heat sources means preventing the first and second heat source means from contacting one another. Dependent claims 7, 8, and 10 are amended commensurate with the amendments to claim 6. Dependent claims 9 and 11 are canceled for redundancy.

The rejections under 35 U.S.C. § 103(a) are respectfully traversed because none of the prior art either alone or in combination discloses or renders obvious all of the limitations of the claimed invention. In summary, none of Nelson, Stephen or Ceravolo either alone or in combination discloses or renders obvious a barbecue device having, among other elements, a catching device disposed between refractory members (claim 1) or a means for spacing disposed between first and second heat source means (claim 6). Each rejection is addressed in detail below.

### Claim Rejections - 35 U.S.C. § 112

Claims 1-5, 9, 10 and 12 stand rejected under 35 U.S.C. § 112 second paragraph as allegedly being indefinite. In particular, the Examiner indicates that the term "catch" is unclear.

In response, the specification is amended to clarify the structure of each catch 26 as being a device for catching or checking motion thereby maintaining space between the refractory members 22, as seen in Fig. 2. Attached as Exhibit A is the definition of a catch being "something that catches, especially a device for fastening or for checking motion" as found in *Webster's II New Riverside University Dictionary Copyright 1998*. In view of both the dictionary definition of a "catch" and Figure 2 of Applicants disclosure, no new matter has been added to the specification.

Additionally, independent claim 1 is amended to recite a catching device that prevents the refractory members from contacting one another. Accordingly, in view of both the amendments to the specification and independent claim 1, Applicant submits that claims 1-5 are clear and definite. With regard to dependent claim 10 and 12, claim 10 is amended to recite a means for spacing in means-plus-function format, and claim 12 is amended to recite the means for spacing is at least one catching device. Therefore, Applicant requests reconsideration and withdrawal of the rejection under 35 U.S.C. § 112, second paragraph.

## Claim Rejections - 35 U.S.C. § 103

Claims 1-3, 5-9, 11 and 12 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 3,834,370 to Nelson in view of U.S. Patent No. 3,688,758 to Stephen. Also, claims 1-3, 5-9, 11 and 12 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Nelson in view of U.S. Patent No. 5,099,821 to Ceravolo. A prima facie case of obviousness has not been established with respect to the claimed invention, as amended, because all of the claim limitations are not found in the cited prior art.

Independent claim 1, as amended recites a barbecue device including, among other elements a tray supporting first and second refractory members and a catching device disposed between the refractory members preventing the refractory members from contacting one another. As amended, independent claim 6 recites a barbecue device including, among other elements, a tray supporting first and second heat source means and a means for spacing disposed between the two heat source means preventing the heat source means from contacting one another.

As acknowledged in the Office Action, neither Nelson nor Ceravolo discloses a refractory member or a heat source means for a barbecue device, as recited in the claimed invention. Additionally, neither Nelson nor Ceravolo discloses a catching device or a means for spacing disposed between refractory members or heat source means.

Stephen fails to cure the deficiencies of either Nelson or Ceravolo. Although Stephen discloses a barbecue grill having a tray with a plurality of refractory bodies 150 disposed on a grate 56, Stephen does not disclose or render obvious either a catching device or a means for spacing disposed between two of the refractory bodies, keeping the bodies from contacting one another as recited in the claimed invention. Instead, as seen in Figure 13 of Stephen, nothing is provided between the refractory bodies 150 including a catching device or even a space. Moreover, because no space is provided between the refractory bodies 150 and the fact that refractory bodies are in contact with one another, it would not have been obvious to one skilled in the art to modify the proposed combination to provide a catching device or spacing means between the refractory bodies 150 of Stephen.

The Examiner's suggestion that an opening is the same as a catch is untenable because a opening neither catches nor checks motion, nor would an opening prevent the refractory members from contacting one another, as recited in the claimed invention.

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In view of the above, a prima facie case of obviousness has not been established.

Therefore, Applicant requests reconsideration and withdrawal of the rejection under 35

U.S.C. § 103(a) and allowance of independent claims 1 and 6.

Dependent claims 2-5, 7, 8, 10 and 12 are also believe allowable for the same reasons

as discussed above regarding independent claims 1 and 6. Moreover these claims recite

additional features further distinguishing them from the prior art. Regarding dependent claim

4. Applicant again respectfully requests evidence of the Official Notice that an ashtray with a

handle and adjustable leg members are well known in the art, as required by MPEP 2144.03

Part B. Regarding claim 10, the Examiner's assertion that the claim recites an optimum or

workable arrangement is misplaced, because the claim specifically recites at least two spaced

rows and the Examiner has pointed to no reason why two rows is either optimum or a

workable arrangement.

In view of the foregoing, Applicant believes that claims 1-8, 10 and 12 are in

condition for allowance. Prompt and favorable treatment is respectfully solicited.

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LLP, Deposit Account No. 23-2185 (001058-00017). Any fees due are authorized above.

Respectfully submitted,

Tara L. Hoffman

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Date: August 17, 2006

001058.00017/35741518v.1

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# WEBSTER'S II New Riverside University Dictionary



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Library of Congress Cataloging in Publication Data Main entry under title:

Webster's II new Riverside university dictionary.

1. English language—Dictionaries. I. Riverside Publishing Company. II. Title: Webster's two new Riverside university dictionary. III. Title: Webster's 2 new Riverside university dictionary.

PE1625.W244 1984 423 83-37

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ISBN: 0-395-33957-X (thumb index, trade edition) 0-395-37928-8 (high school edition)

Manufactured in the United States of America

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catt < Lat. cattus. ] 1. a. A carnivorous maniformesticus, domesticated since early times as ice and as a pet and existing in several breed to the other animals of the family Felida, er, leopard, and lynx. c. The fur of a domestiful woman. 3. A cat-o-nine-tails. 4. A cattish h A device for raising an anchor to the control of the cattery of the catte 1. b. A device for raising an anchor to the call of slang. Fellow 1a.—vi. cat-ted, catting that to the cathead.—let the cat out of the cret: spill the beans.

237:

236

cret: spill the beans.

ancient times the cat, now kept as a pet, wat all in Europe. The Latin word felis, which has scientific name for the cat genus, denoted only the Greek word allouros did denote the domestic. kinds of cats, but the only domestic cats men Greek writers lived in Egypt, not Greece. By the owever, the domestic cat had been introduced ew word appeared to denote this creature: common in Greek. The Latin form is the source of the in the Romanet languages it was also borrowd. h Germanic at an early date and is the sourced word cat. Some form of the word, perhaps the ek and Latin forms, was borrowed into the Cel es by at least the very early medieval period to European word, the word for "cat" represented of Indo-European origin; it was most likely to the control of the cat lage of northern Africa.

puterized axial tomography ata < kata, down ] 1. Down < catadromous ls: degenerative < cataplasia >

ka-tāb'a-liz'am) n. [< Gk. katabolē, a throng in. to throw down : kata-, down + ballein. : change of complex molecules into simple the hits (kāt'a-bal'ik) add Til'ie (kāt'a-bōl'īk) adi. —cat'a-bol'i-cal-ly ady a-tab'a-lit') n [CATABOL(ISM) + -ITE.] A substitution

(a-tāh'a-līz') vi. & vt. -lized, -liz-ing, -lizes

to undergo catabolsm (kāt'ə-krē'sīs) n. pl. -ses (-sēz') [Lat. catachrei excessive use < katakhrēsthai, to use up : kāt'ə-krā'sthai, to use | 1. a. Strained use of a word torical effect b. An intentionally paradoxical first of the catachrei word in a context. -cat's-chrei -cat's chree of a wrong word in a context.

aklusmos < katakluzein, to inundate : kata ish.] 1. A sudden violent change in the early leaval or disaster. 3. A devastating flood. mīk), cat'a-clys'mal (-kliz'məl) adi cat'a-kōm') n. [OFr. catacombe < Llat. catacil tacombs. An underground chamber with

us (ka-tăd'ra-mas) adj. Migrating down

us (kɔ-tād'rɔ-mɔs) adi, Migrating usus waters <actadromous fish>
(kāt'ɔ-fālk', -fōlk') n. [Fr. < Ital. catafalcol'
: on which a coffin rests during a state funently rl-ān', -ɔn) adi. Of or relating to Catalonia adi. e, or culture. —n. 1. A native or resident of Culture e language of Catalonia.

ärl-ās', -āz') n. [CATAL(YSIS) + -ASE.] An email arl-ās', -āz') n. [CATAL(YSIS) + -ASE.] An email -arl-ās', -āz') n. [CATAL(YSIS) + -

tissues that catalyzes the decomposition of hy

water and oxygen.

(kārl-ēk'tik) adi. [LLat. catalecticus < Gr.

nplete < katalēgein, to leave off: kata., off, finating a verse lacking part of the last foot. in the last fo lambanein, to seize.] Muscular rigidity, lack of lambanein, to seize.] Muscular rigidity, inment, and lack of response to external stimular h epilepsy, schizophrenia, and hysteria.

also cat-a-log (karl-log, og) [ME catholog [Lat. catalogus, enumeration < Gk. catalogus; examination + legein, to count.] list, often featuring descriptions of the list tion containing such a list <a mail-order officers talog.—vt. & vi.—logued,—loguing. logued,—loga. To list in or make a catalogue. (a-log er n.

ka-tal'pa, -tol'-) n. [Creek kutuhlpa.] A chi ee of the genus Catalpa, having large leaves

rs, and long slender pods.

g (kɔ-tall's-sis) n., pl. -es (-sez') [Gk. kataliusii luein, to dissolve : kata-, intensive + luein.

The action of a catalyst, esp. modification of the rate of a chemical 

presentini mail amounts relative to the reactants, that modifies and presenting the process are rate of a chemical reaction without being consumer the process. 2. One that precipitates a process or event ident's visit was the catalyst for riots.>

Afinely-divided platinum-iridium catalyst into which exhaust gases from intravenum or the manufacture and catalytic converter n. A reaction chamber typically containing onemonoxide and hydrocarbon pollutants are oxidized to oxide and water.

ration/dioxide/and water.

catalytic cracker n. An oil refinery unit in which the cracking direction takes place in the presence of a catalyst.

catalyze (tatliz) vt. -lyzed. -lyzing. -lyzes. [< CATALYSIS.]

To modify the rate of (a chemical reaction) as a catalyst. —catalyse.

i. (ly cran to David Care and Care and

smill(Ar-plazom): n.: [OFr. cataplasme < Llat. cataplasma: kataplasma: kataplasma: to plaster over: kata- (inlate plazom): n.: [OFr. cataplasme < Llat. catalate plazom): n.: [OFr. cataplasme < Llat. catalate plazom; onoid.] Med. A poultice.

""" [Georgia onoid.] Med. A poultice.
""" [Georgia onoid.] Med. A poultice.
""" [Georgia onoid.] Med. A poultice.
""" [Georgia onoid.] Med. A poultice.
""" [Geo

intending, downpour, s. ratno. Opacity of the state of the second of the

part of the action of a classical tragedy directly 10 (18-03) The climax of a play.

Ocvenum; kata-, down + strephein, to turn.] Obytitum; kata., down + strephein, to turn.]
Thiecalamity: Disaster. 2. A total failure: FRASCO.

(Therelimax of a play, esp. a classical tragedy.

(Adstroptik): adj. — cate a troph is cally adv.

(Adstroptik): adj. — cate a troph is cally adv.

(Strephenson: [Nlat. < G. Katatonie < Gk. kata
(Strephenson: C. Katatonie < Gk. hata
(Strephenson: C. Katatonie of the limbs,

(Strephenson: C. Katatonie (Strephenson: C. Katatonie)

(Strephenson: Cate a trophenson: Cat bonding Catawha River in the Carolinas. b. A membra Catawha River in the Catawha 2. a. pl. of the Catawha 2. a. pl. of the Catawha grape. The American grape developed from the fox white made from the Catawha grapes.

To make resemblance of one of its calls to the catawha grapes.

The Catawha grapes.

Ay plumage.

position. ut] Anbroad beamed sailboat carrying a well forward. Athorny vine of the genus Smilax, esp. S.

shing the this of a cut of a urge y young item; edible, gallop, circus

rotundifolia, with heart-shaped leaves, small green flowers, and

catalyst • catch-up

cat-call (kăt'kôl') n. A harsh or shrill call or whistle expressing derision or extreme disapproval. -cat'call' v. (-called, -call-ing,

-calls). Catch (kāch, kēch) v. caught (kôt), catch-ing, catch-es. [ME cacchen < AN cachier, to chase < Lat. captare, freq. of capere, to seize.]—vt. 1. To seize or capture, esp. after a chase. 2. To take by trapping or snaring < arch a mouse > 3. To come upon suddenly, unexpectedly, or accidentally < caught me unaware > 4. a. To lay hold of forcibly or suddenly: CRASP. b. To grab so as to stop the motion of < catch a baseball > 5. a. To overtake < caught me on the steep hill > b. To reach in time to board < caught the train at five > 6. a. To entangle: grip, b. To cause to become suddenly or accidensteep nill > **b.** To reach in time to board < aught the train at five > **6. a.** To entangle: grip. **b.** To cause to become suddenly or accidentally hooked, entangled, or fastened. 7. To strike: hit < a blow that caught me in the chest > **8.** To check (oneself) during an action. **9.** To become subject to or contract, as by exposure or contagion < arch the flu> 10. To become affected by or imbued with caught the happy mood of the party> 11. To perceive suddenly, momentarily, or quickly <aught a glimpse of the President>
12. To grasp mentally: APPREHEND <a href="https://diamon.com/diamon/sudden/">diamon/sudden/</a> tach the meaning of that sentence > 13. To apprehend and reproduce accurately by or as if by artistic means. 14. To attract and fix < tried to catch your theatrical performance) < caught their act in Las Vegas > -vi. 1. To become held, entangled, or fastened. 2. To act or move so as to hold someone or something. 3. To be communication. someone or something. 3. To be communicable: SPREAD. 4. To take fire: KINDLE. 5. Baseball. To act as catcher.—catch on. Informal. 1. To understand. 2. To become popular < a melody that caught on quickly>—catch up. 1. To detect (someone) in a mistake. 2. To come up from behind: OVERTAKE. 3. To become involved with, often come up from behind OVERTAKE. 3. To become involved with, often unwillingly caught up in the plot> 4. To become up to date catch up on the evening news> 5. To absorb completely: ENGROSS.—n. 1. The act of catching. 2. Something that catches, esp. a device for fastening or for checking motion. 3. Something caught < a catch of cattish> 4. An amount caught. 5. A choking or stoppage of the breath or voice. 6. A stop or break in a mechanism. 7. Informal. One worth catching. 8. Informal. A tricky or unsuspected condition or drawback. 9. A snatch: fragment. 10. Mus. A canonical, often rhythmically intricate composition for three or more voices, popular cap in the 17th and 18th cent. 11. 8. The seizure and holding of a esp. in the 17th and 18th cent. 11. a. The seizure and holding of a thrown, kicked, or batted ball before it hits the ground. b. A game of throwing and catching a ball —catch it. Informal. To receive punishment or scolding.—catch (one's) breath. To take a brief rest. \*syns: CATCH, CLUTCH, GRAB, NAB, SEIZE, SNATCH v. core

meaning: to lay hands on (something moving) < The outfielder caught the fly ball. >

word history: Nowadays if a hunter "chases" an animal, he does not necessarily "catch" it, but it was not always so. Catch and chase are doublets, ultimately the same word but derived from two different dialects of Old French. Catch descends from the Norman form cachier, which meant only "to chase" and not "to catch." It is first recorded as an English word in the early 13th century. Chase descends from the central, or Parisian, form chacier, which, like ca-chier, meant only "to chase." This is still the meaning of modern French chasser. In English catch was first used to mean "capture," and after the adoption of chacier in the 14th century it came to be used exclusively in that sense.

catch-all (kāch'0l', kēch') n. A receptacle for odds and ends. catch-as-catch-can (kāch'ɔz-kāch-kān', kēch'ɔz-kēch-) adi. Seizing any opportunity or utilizing any available means to achieve

an end. catcher (kāch'ər, kēch'-) n. One that catches, esp. the baseball player whose position is behind home plate and who signals for and receives pitches.

catchefly (kāch'flī', kēch'-) n. A plant of the genus Silene and related genera, having white, pink, or red flowers with sticky stems and

catching (kāch'ing, kěch'.) adj. 1. Infectious. 2. Attractive. catchment (kāch'ment, kěch.) n. 1. A catching or collecting of water. 2. a. A structure, as a basin, for collecting or draining water. b. The amount of water so collected.

catch pen ny (kāch'pēn'e, kēch.) adi. Designed to sell without concern for quality: CHEAP.—n., pl. nies. A catchpenny item. catch phrase n. An often repeated word or slogan.

catch phrase n. An often repeated word or slogan.
catch pole also catch poll (kāch'pōl', kēch') n. [ME cacchepol
Norman Fr. cachepol, prob. < OFr. chacepol : chacier, to hunt (<
Lat. captare, freq of capere, to seize.) + poul; rooster < Lat. pullus,
chicken.] A sheriff's officer, esp. one who arrests debtors.
Catch-22 (kāch'rwēn-tē-tōo', kēch') n. [After Catch-22, a novel by
Joseph Heller (b. 1923).] A paradox in which seeming alternatives
catchly capsel each other out leaving no means of escape from a actually cancel each other out, leaving no means of escape from a dilemma.

catch-up (kāch'əp, kēch'-) n. var. of KETCHUP.
catch-up (kāch'ūp') adi. Designed or intended to catch up to a
standard <"catch-up increases in prices to restore profit margins" -Newsweek >

her epet ebe hw ô paw, for oi noise âr care ŏ pot